

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DONALD CLARK,  
Plaintiff,

v.

ORDER  
08-CV-637A

STEVE SWAIN  
and  
LORI LAY,

Defendants.

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The above-referenced case was referred to Magistrate Judge H. Kenneth Schroeder, Jr., pursuant to 28 U.S.C. § 636(b)(1)(B). On January 25, 2011, Magistrate Judge Schroeder filed a Report and Recommendation, recommending that defendant Steve Swain's motion to dismiss plaintiff's complaint be granted.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Schroeder's Report and Recommendation, defendant Steve Swain's motion to dismiss plaintiff's complaint is granted.

The Clerk of Court shall take all steps necessary to close the case.

SO ORDERED.

*s/ Richard J. Arcara*

HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT JUDGE

DATED: February 23, 2011